

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION

UNITED STATES OF AMERICA,	§	
	§	
v.	§	2:04-CR-0025
	§	
WARREN DOUGLASS COBLE, JR.	§	

**ORDER ADOPTING REPORT AND RECOMMENDATION, IN PART, and
DENYING "MOTION TO REDUCE SENTENCE PURSUANT TO § 3582(c)(2)"**

Came for consideration the "Motion to Reduce Sentence Pursuant to § 3582(c)(2)" filed by defendant WARREN DOUGLASS COBLE, JR. On September 30, 2010, the United States Magistrate Judge issued a Report and Recommendation in this cause, recommending therein that the instant motion be dismissed. On October 18, 2010, defendant filed objections to the Report and Recommendation.

By his Objections, defendant objects to the recharacterization of his "Motion to Reduce Sentence Pursuant to § 3582(c)(2)" as a motion to vacate, citing *Castro v. United States*, 540 U.S. 375, 124 S.Ct. 786, 157 L.Ed.2d 778 (2003), and arguing that, before recharacterizing his motion as a motion to vacate under § 2255, the Court should have given him notice, warned him that subsequent motions under § 2255 would be subject to the restrictions on second or successive motions to vacate, and given him an opportunity to withdraw. Nevertheless, defendant does not withdraw his motion or show how it properly falls under § 3582(c)(2).

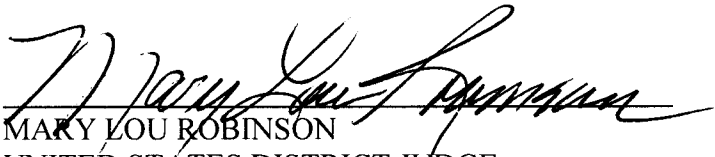
Having made an independent examination of the record in this case and having examined the Report and Recommendation of the Magistrate Judge, as well as defendant's objections, the

undersigned United States District Judge does not recharacterize defendant's "Motion to Reduce Sentence Pursuant to § 3582(c)(2)" as a motion to vacate under 28 U.S.C. § 2255.

The Court hereby OVERRULES THE REMAINDER OF DEFENDANT'S OBJECTIONS and ADOPTS the Magistrate Judge's Report and Recommendation, in part. Accordingly, the "Motion to Reduce Sentence Pursuant to § 3582(c)(2)" filed by defendant is, in all things, DENIED.

IT IS SO ORDERED.

ENTERED this 19th day of October, 2010.


MARY LOU ROBINSON
UNITED STATES DISTRICT JUDGE